



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,225	08/24/2001	Paul J. Angelico	14859-022	4085

30623 7590 07/16/2003

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY  
AND POPEO, P.C.  
ONE FINANCIAL CENTER  
BOSTON, MA 02111

9  
EXAMINER

TOOMER, CEPHIA D

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/939,225

Applicant(s)

ANGELICO ET AL.

Examiner

Cephia D. Toomer

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-18 and 20-33 is/are pending in the application.
- 4a) Of the above claim(s) 24-33 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-23 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 11, 12 and 14 is/are rejected.
- 7) ☒ Claim(s) 9, 10 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

This Office action is in response to the amendment filed February 20, 2003 in which claims 5 and 19 were canceled and claims 1, 2, 13, 15, 16, 18 and 20 were amended. Claims 24-35 are non-elected.

The election/restriction is deemed to be proper and FINAL because applicant presented no arguments to the contrary.

The rejection of the claims under 35 U.S.C. 112, second paragraph is withdrawn in view of the amendment to the claims.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6, 7, 8, 11, 12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh (US 4,342,656) in view of Sturwold (US 3,923,702).

Walsh teaches a process for disposal of aqueous lipoidal wastes (see abstract). The waste is obtained from processes wherein fats and vegetable oils such as coconut, are refined (see col. 1, lines 10-15). Walsh teaches that the waste "has considerable fuel value" (see col. 1, lines 26-30). The waste comprises esters and fatty acids (see col. 2, lines 18-24). The waste oil is combined with No. 6 fuel oil and combusted in a boiler (see col. 2, lines 25-26, 44-49; Example). Walsh teaches that the amount of

Art Unit: 1714

waste material combined with the fuel oil may be as much as about 25% (see col. 2, lines 59-66). Walsh teaches the limitations of the claims other than the differences that are discussed below.

Walsh fails to teach that the waste oils are the distillation products of an animal fat or vegetable oil, or that glycerine is removed before distillation. However, Sturwold teaches waste residues obtained from the distillation of fatty acids produced in fat-splitting operations wherein fats and fatty oils are hydrolyzed into fatty acids and glycerol. Sturwold teaches that the waste oils are normally disposed of by burning (see col. 1, lines 5-41). Sturwold also teaches that glycerine is removed before distillation.

It would have been obvious to one of ordinary skill in the art to have used waste oils of distillation products of animal fat or vegetable oils because Walsh teaches that his waste product is waste generated in the refining of fats and oils and Sturwold teaches that distillation is one method used to obtain the oils and fats.

3. Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues that Walsh's lipoidal waste is not the unvaporized remnant of a natural oil or fatty and that Walsh contains a substantial amount of water.

Walsh recites that the waste of his invention is generated in the refining of fats and vegetable oils. Sturwold teaches that the fats and oils are refined by a distillation process at high temperatures and pressures in the presence of water (see col. 2, lines 12-17). Furthermore, Applicant's claim language "comprising" does not exclude the water of Walsh.

4. Claims 9, 10 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art fails to teach or suggest the proportions of free fatty acid, unhydrolyzed fat/oil, unsaponifiable impurities and oxidized, polymerized fatty materials.

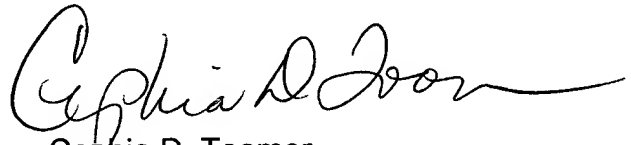
Claims 15-18, and 20-23 are allowable because the prior art fails to teach the specifics of the natural oil by products in the unvaporized remnant of the natural oil composition.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 703-308-2509. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Art Unit: 1714

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in cursive script, reading "Cepha D. Toomer".

Cepha D. Toomer  
Primary Examiner  
Art Unit 1714

09939225\9  
July 15, 2003